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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,145	02/13/2006	Masatoshi Kuwajima	OGW0418	7755

7590 02/11/2009  
Patrick G. Burns - Greer, Burns & Crain, Ltd.  
Suite 2500  
300 South Wacker Drive  
Chicago, IL 60606

EXAMINER
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FISCHER, JUSTIN R

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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02/11/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/568,145

**Applicant(s)**

KUWAJIMA ET AL.

**Examiner**

Justin R. Fischer

**Art Unit**

1791

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirai (JP 2003002015, of record) and further in view of Feijen (US 5,092,381, newly cited).

As best depicted in the figures, Hirai discloses a pneumatic tire construction having a plurality of belt layers 6 and a radially outermost belt reinforcement layer 7, wherein said belt reinforcement layer overhangs the end of the underlying belt layers by a distance of at least 10 mm. The reference further suggests the use of a wide variety of reinforcing materials for the belt reinforcement layer, including polyethylene terephthalate or PET (Paragraph 16). While the reference fails to expressly describe any specific PET cord, the claimed PET cord is recognized as a suitable reinforcing material for tire belts, as shown for example by Feijen (Column 5, Lines 7-20 and 45+ and Column 15, Lines 1+). In this instance, the PET cord of Feijen has the following properties:

**Load at 5% (N) = (0.015-0.06) x linear density, wherein the linear density is preferably between 300 and 2,500 dtex; therefore, the load at 5% can range**

**between 4.5 N and 150 N (Column 5, Lines 10-20- using disclosed 5%-LASE values).**

As such, it is evident that Feijen is directed to a PET cord having an elongation of 5.0% at a load of 67 N (falls substantially in the middle of the possible loads using the preferred linear density values). It is emphasized that applicant has not provided a conclusive showing of unexpected results to establish a criticality for the claimed load at an elongation between 3.5% and 5.5%.

Lastly, with respect to the independent claim, as noted above, the amount of overhang can be as small as 10 millimeters, which falls in the middle of the claimed range between 5 and 20 millimeters. In this instance, Hirai is broadly directed to a pneumatic tire construction and it is evident that the respective outer diameters are a function of the specific tire being manufactured. Thus, it is evident that a plurality of tire constructions in Hirai would satisfy the broad range of the claimed invention and applicant has not provided a conclusive showing of unexpected results to establish a criticality for the claimed range. It is further noted that the "overhang" described by Hirai is an absolute dimension and is not a function of the specific tire size (it is just required that the reinforcement layer reinforces the shoulder portion). Lastly, it is noted that an overhang of 10 mm suggests that the radial separation between the respective ends is less than 10 mm- such a separation suggests that the claimed radial separation (measured at tread center, not belt end) would have falling between 6.5% and 13% of the diameter at the end of the overhang.

Regarding claim 5, the claim is directed to the method of forming the belt reinforcement layer and thus does not further define the structure of the claimed tire construction. It is further noted that Hirai discloses a method in which the belt reinforcement layer is formed by winding strips (Page 20, Lines 5-10).

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirai and Feijen applied in claim 1 above and further in view of Poque (DE 4209817, of record).

As detailed above, Hirai (in view of Feijen) substantially teaches the tire of the claimed invention, including a belt reinforcement layer formed of a reinforcing element having an elongation of 5.0% at a loading of 67 N. The references, however, fail to suggest the use of cords having a lower modulus (higher elongation) in the overlap portion, as compared to the cords used in the region above the belt layers. Poque, on the other hand, is directed to a similar tire construction comprising an outermost belt reinforcement layer, wherein the shoulder regions are formed with a cord having a smaller modulus, as compared to the cord used in the overlapped portion. Poque further teaches that such a construction improves dimensional stability during high speed running. Absent any conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to use a cord having a smaller modulus in the shoulder portion, as compared to the overlapped portion.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirai and Feijen as applied in claim 1 above and further in view of Nishizawa.

As detailed above, Hirai, in view of Feijen, discloses a tire construction having a belt reinforcement layer that is directly adjacent the belt layers in an overlapped region and directly adjacent a carcass layer in an overhang region. While the references fail to expressly disclose the cord-to-cord distance (based on topping rubber separation) between reinforcing elements in adjacent layers, the claimed range is consistent with topping rubbers conventionally used in tire constructions. Nishizawa provides one example of a tire construction in which the cord-to-cord distance between cords in adjacent belt layers is between 0.5 mm and 1.3 mm (Column 2, Lines 65+), which is almost identical to the claimed range. One of ordinary skill in the art at the time of the invention would have found it obvious to form the each of the tire combinations with the claimed separation. It is further noted that while the reference fails to expressly define a distance between a belt layer and a carcass layer, one of ordinary skill in the art at the time of the invention would have recognized the values of Nishizawa as being consistent with (on the order of) the separation of reinforcement elements in adjacent tire layers. Lastly, applicant has not provided a conclusive showing of unexpected results to establish a criticality for the claimed separation.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1 and 3-5 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Justin R. Fischer** whose telephone number is **(571) 272-1215**. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Fischer  
/Justin R Fischer/  
Primary Examiner, Art Unit 1791  
February 7, 2009